IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

WP(C).No. 15466 of 2004(N)

IA.2545/04 IN OS.1959/1998 of II ADDL.M.C., ERNAKULAM

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PETITIONER:

A.O.JOSE, AGED 49 YEARS,
S/O.KOCHOUSEPH, ATHAPPILLY HOUSE, CHOWARA P.O.
EDANAD.

BY ADV. SRI.A.T.ANILKUMAR
SRI.P.DALBI EMMANUEL

RESPONDENTS:

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1. M/S.BENHUR TRADES AND INVESTMENTS PVT.
LTD., A COMPANY REGD.UNDER THE COMPANIES ACT,1956
HAVING ITS REGISTERED OFFICE AT MAS BUILDINGS,
ERNAKULAM, KOCHI - 18.

2. A.K.PAUL, AGED 32 YEARS,
S/O.KOCHOUSEPH, ATHAPPILLY HOUSE,
CHOWARA P.O.

3. T.P.DEVASSY, AGED 50 YEARS,
S/O.POULOSE, THATCHAPPILLY HOUSE,
CHOWARA P.O. CHOWARA.

R1 BY ADV. SRI.JIMMY JOHN VELLANIKARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.15466/04

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF ORDER IN I.A.2545/04 IN O.S.1959/98 DT.3.4.04 OF 2ND ADDL. MUNSIFF'S COURT, ERNAKULAM

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.15466 OF 2004

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DATED THIS THE 19TH JUNE, 2007

J U D G M E N T

The contest is between the petitioner and the 1st respondent. The 2nd respondent who is yet to be served was only a co-defendant in the suit for money filed by the 1st respondent. He is not a necessary party in the nature of the reliefs sought for in the Writ Petition. The Writ Petition is not defective.

2. Ext.P1 order dismissing an application for amendment of the written statement is under challenge. I have gone through Ext.P1. I have also considered the detailed counter affidavit filed by the 1st respondent. Having regard to the obvious position that the order dismissing I.A.No.2874 of 2004 on the ground that the petitioner did not pay costs has attained finality, I do not find any warrant for interfering with the impugned order. The challenge against the impugned order fails and the Writ Petition is dismissed.

(PIUS C.KURIAKOSE, JUDGE)

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